

In the Matter of:

Vincent De Giovanni, et al.

vs.

Jani-King International, Inc., et al.

**Mariette Barros
Vol. I, March 3, 2009
Confidential Deposition**

*Doris O. Wong Associates, Inc.
Professional Court Reporters
Videoconference Center
50 Franklin Street
Boston, MA 02110
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CONFIDENTIAL - SUBJECT
TO PROTECTIVE ORDER

Volume I
Pages 1 to 101
Exhibits 53 to 61

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

- - - - - - - - - - - - - - -x
 :
 VINCENT DE GIOVANNI, MARIETTE :
 BARROS and all others :
 similarly situated, :
 Plaintiffs, : Civil Action
 : No. 07-10066 RCL
 vs. :
 :
 JANI-KING INTERNATIONAL, :
 INC., JANI-KING, INC. And :
 JANI-KING OF BOSTON, INC., :
 Defendants. :
 :
 - - - - - - - - - - - - - - -x

CONFIDENTIAL DEPOSITION OF MARIETTE BARROS,
 through the Interpreter, a witness called on behalf
 of the Defendants, taken pursuant to the Federal
 Rules of Civil Procedure, before Jane M. Williamson,
 Registered Merit Reporter and Notary Public in and
 for the Commonwealth of Massachusetts, at the
 Offices of Nixon Peabody LLP, 100 Summer Street,
 Boston, Massachusetts, on Tuesday, March 3, 2009,
 commencing at 10:13 a.m.

PRESENT:

Pyle, Rome, Lichten, Ehrenberg &
 Liss-Riordan, P.C.
 (By Alex Sugerman-Brozan, Esq.,
 and Hillary Schwab, Esq.)
 18 Tremont Street, Suite 500, Boston,
 MA 02108, for the Plaintiffs.
 Nixon Peabody LLP
 (By Arthur L. Pressman, Esq.,
 and Gregg A. Rubenstein, Esq.)
 100 Summer Street, Boston, MA 02110,
 for the Defendants.

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PRESENT: (Continued)

Jani-King International, Inc.

(By Donald A. Burleson, General Counsel)

16885 Dallas Parkway, Addison, TX 75001.

Also Present: Artemisa Monteiro-Rogers, Interpreter

Helen Sinzker

* * * * *

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1 location during those name changes?

2 A. Yes.

3 Q. And what was that location?

4 A. Woburn.

5 Q. And do you recall the street address?

6 A. I don't remember by memory, but I can give
7 it to you another time.

8 Q. Okay. Do you recall the name of the
9 street?

10 A. I think Washington Street.

11 Q. And what was the business of the Valet
12 Group?

13 A. Cleaning.

14 Q. And did you begin working there in 1998?

15 A. No, '99.

16 Q. And for how long did you continue working
17 there?

18 A. Eight years.

19 Q. What year did you end your employment
20 there?

21 A. Two years ago.

22 Q. 2006 or 2007?

23 A. '07.

24 Q. When you first began at the Valet Group,

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1 employment?

2 A. No.

3 Q. How did you know when to come to work each
4 day?

5 A. I would come in the morning and I would get
6 the schedule for the day.

7 Q. And would the schedule tell you which
8 houses you were to clean each day?

9 A. I had, like, a fixed schedule.

10 Q. And what was your fixed schedule?

11 A. Between eight in the morning and 4 p.m.

12 Q. Did you during the time that you worked for
13 the Valet Group ever have a second position?

14 A. No.

15 Q. Now, when did you first come to hear of
16 Jani-King?

17 A. In 2003.

18 Q. And from whom did you hear of Jani-King for
19 the first time?

20 A. A friend, a Brazilian friend.

21 Q. And what is the name of that Brazilian
22 friend?

23 A. May I check his last name?

24 Q. Please.

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1 A. Ronaldo is his first name. I don't have
2 his last name. Rodrigues.

3 Q. I'm sorry, Ronaldo Rodrigues?

4 A. Yes.

5 Q. And how did you know Mr. Rodrigues?

6 A. He was the cousin of a friend of mine.

7 Q. And what was the name of your friend --
8 what is the name of your friend?

9 A. Rosalee Rodrigues.

10 MR. PRESSMAN: Would you mark that.

11 (Document marked as

12 Exhibit 53 for identification)

13 Q. Would you take a minute and look at the
14 document we've marked as Exhibit 53.

15 A. (Witness reviews document)

16 Q. We received this document from your lawyer,
17 who told us that it was in your papers.

18 Do you see that this document refers to a
19 seminar -- or two seminars, actually, in June 2002?

20 A. June 2002?

21 0. Do you see that?

22 A. Yes.

23 Q. Do you know how this document came to be in
24 your personal papers?

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1 A. No.

2 Q. Did you attend a seminar at a Jani-King
3 office in June 2002?

4 A. No.

5 Q. When in 2003 did Mr. Rodriques tell you
6 about Jani-King?

7 A. I don't remember the exact date.

8 Q. Do you recall the month?

9 A. It was a few months before I signed the
10 contract.11 Q. And what did Mr. Rodriques say to you about
12 Jani-King when he first discussed it with you?13 A. He spoke very well. He said it was a
14 serious company; that they sold franchises.

15 Q. And did you know what a franchise was?

16 A. He explained it to me. I didn't know.

17 Q. And what did he tell you a franchise was?

18 A. That I would pay a certain amount of money.
19 They would give me the work, and I would receive a
20 check monthly.

21 Q. Was Mr. Rodriques a -- strike that.

22 Did Mr. Rodriques own a Jani-King
23 franchise?

24 A. Yes.

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1 Q. Were you planning to do the work of a
2 Jani-King franchise in addition to your
3 housecleaning for your employer, Valet Group?

4 A. Yes.

5 Q. Did you and Mr. Rodriques in that first
6 conversation talk about how you would go about
7 buying a Jani-King franchise?

8 A. Yes.

9 Q. What did he tell you?

10 A. That I would pay an amount, and that amount
11 would be a determined check every 5th of the month.

12 Q. Did he tell you what amount you would pay
13 to purchase a Jani-King franchise?

14 A. Yes, he did.

15 Q. And what did he tell you?

16 A. He said they have all kinds of amounts.

17 Q. And did you tell him what amount you wanted
18 to spend on purchasing a Jani-King franchise?

19 A. Yes.

20 Q. And what did you tell him?

21 A. I told them that the maximum amount I could
22 purchase a franchise for would be \$8,000.

23 Q. And what did Mr. Rodriques say in response
24 to that?

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1 Q. Did you and he ever go to Jani-King
2 together?

3 A. Yes.

4 Q. And when was the first time you did that?

5 A. I believe one month prior to signing the
6 contract.

7 Q. Before that first visit, had you spoken
8 with anyone else about your interest in buying a
9 Jani-King franchise?

10 A. No.

11 Q. Other than Mr. Rodriques, did you know
12 anyone else who owned a Jani-King franchise?

13 A. No.

14 Q. Before the day that you and Mr. Rodriques
15 first went to the Jani-King office, did you work for
16 Mr. Rodriques in his franchise?

17 A. No.

18 Q. Before the day you and Mr. Rodriques went
19 to the Jani-King office for the first time, did you
20 work for anyone in a Jani-King franchise?

21 A. No.

22 Q. Other than your first discussion with Mr.
23 Rodriques about Jani-King, did you do anything else
24 to learn about Jani-King before the day that you and

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1 Mr. Rodriques went to Jani-King?

2 A. He explained how everything worked.

3 Q. And he did that in your first conversation?

4 A. Yes.

5 Q. When you went to Jani-King, did anyone
6 accompany you and Mr. Rodriques?

7 A. No.

8 Q. Whom did you meet with at Jani-King?

9 A. I don't remember the name of the person.
10 It was a secretary. She was pregnant at the time.

11 Q. What did that meeting consist of?

12 A. In that meeting, she would speak in English
13 to him, explaining how things worked, and he would
14 say it to me in Portuguese.

15 Q. Was there anyone else in the meeting
16 besides you, Mr. Rodriques and the pregnant
17 secretary?

18 A. For a few moments, yes.

19 Q. And who else was in that meeting?

20 A. Mike. He was the director, but I don't
21 know his last name.

22 Q. And what, if anything, did Mike say during
23 that first meeting?

24 A. He just greeted and then identified

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1 Offering Circular."

2 Did you receive a booklet or other document
3 similar in size, let us say, to the document that
4 we've just put before you?

5 A. No.

6 Q. Did you receive a document -- some people
7 have told us that this document comes in a black
8 binder.

9 Did you receive any document in a black
10 binder?

11 A. No.

12 Q. Do you know if Ronaldo received any
13 documents from Jani-King for you?

14 A. No.

15 Q. No, you don't know?

16 A. He didn't receive.

17 Q. Now, in this first meeting, which you said
18 lasted a very short time, did Ronaldo introduce the
19 work that you were going to do as a Jani-King
20 franchisee?

21 A. The secretary for Jani-King gave to him
22 what it would be, which would be the school and the
23 office. And then she asked him for him to show me
24 what would be the work.

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1 Q. What was the name of the school?

2 A. Energy Works Fitness.

3 THE INTERPRETER: The interpreter is wrong
4 on the translation. It is a gym versus school.

5 Q. And what was the name of the office?

6 A. Automation Solutions.

7 Q. Have you written down on a piece of paper
8 some information to help you during this deposition?

9 A. Yes, I did.

10 Q. May I see it, please?

11 MR. SUGERMAN-BROZAN: If you don't mind,
12 I'd like to take a look at it. And if we actually
13 can have a brief break, so I can review it and then
14 we'll return.

15 MR. PRESSMAN: Well, by all means; but
16 since she's looking at it during the deposition, I'm
17 clearly entitled to see it. But there's no question
18 that you have the right.

19 (Recess taken from 11:01 to 11:10)

20 (Document marked as

21 Exhibit 57 for identification)

22 BY MR. PRESSMAN:

23 Q. Ms. Barros, I just put in front of you a
24 copy of your handwritten note. Would you confirm

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1 MR. SUGERMAN-BROZAN: That's what I meant
2 when I said "spellings."

3 MR. PRESSMAN: I understand that.

4 Q. So the first page marked "Resumo" is what
5 you prepared yesterday?

6 A. Yes.

7 Q. Very good, thank you.

8 Now, if you look at the checks, do you see
9 that Check No. 575 is payable to Mr. Rodriques?

10 A. Because when I went to make the payment,
11 the worker for Jani-King wanted me to pay cash. And
12 I didn't want to pay in cash. She made me do a
13 check for Jani-King and another one in blank. This
14 is not my handwriting.

15 Q. Which part of which check is not your
16 handwriting?

17 A. "Ronaldo Rodriques."

18 Q. And do you know whose handwriting it is?

19 A. No.

20 Q. When you gave the Check 575, was the line
21 blank on which someone has written "Ronaldo
22 Rodriques"?

23 A. Yes.

24 Q. Do you know who a man named Tubi is?

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1 A. On the day that I made the payments with
2 the checks, he was in the room.

3 Q. Who else was in the room when you made the
4 payments with the checks?

5 A. I don't remember.

6 Q. You were in the room?

7 A. Yes.

8 Q. Ronaldo was in the room?

9 A. Yes.

10 Q. Tubi was in the room?

11 A. Yes.

12 Q. Was anyone from Jani-King in the room?

13 A. A secretary and Mike.

14 Q. Was the secretary the same pregnant
15 secretary?

16 A. Yes.

17 Q. What did Ronaldo ask you to do during that
18 second meeting?

19 A. To pay and to sign the contract.

20 Q. Did Ronaldo review the contract with you?

21 A. No.

22 Q. Did you know whether you were buying a
23 Jani-King franchise from Jani-King or someone else?

24 A. I didn't know.

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1 lived?

2 A. 30 minutes.

3 Q. And how close was the gym to the office?

4 A. I don't know. I didn't do it in the same
5 day.

6 Q. How long did you and Ronaldo spend at the
7 office on that first visit?

8 A. Ten minutes.

9 Q. And what did you do during that ten
10 minutes?

11 A. He showed me what I had to clean.

12 Q. Did you and Ronaldo meet with anyone who
13 worked at the office?

14 A. No, not on that day.

15 Q. Okay. When did you start working at your
16 Jani-King business?

17 A. The first days of September.

18 Q. 2003?

19 A. Yes.

20 Q. And what did that work consist of?

21 A. Cleaning.

22 Q. Were you still employed as a housecleaner
23 by the Valet Company?

24 A. Yes.

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1 Q. What was your understanding of when you
2 could clean the gym?

3 A. It had a schedule. I could only clean it
4 after it's closed.

5 Q. And when did it close?

6 A. 10 p.m.

7 Q. How many days a week did you clean the gym?

8 A. Seven days.

9 Q. Did you have a key?

10 A. Yes.

11 Q. For how long did you -- for how many months
12 did you clean the gym?

13 A. 1st of September through March 8th.

14 Q. March 8th of 2004?

15 A. Yes.

16 Q. And did you write down that information on
17 Document 57?

18 A. Yes, I did.

19 Q. And where did you get the information from
20 in order to write it on Document 57?

21 A. Because I wrote down everything that was
22 happening at the time on my calendar.

23 Q. And do you have a copy of the calendar that
24 you used in 2003 on which you wrote down whatever

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1 Q. I understand you had a key to the gym?

2 A. Yes.

3 Q. And could you let yourself into the gym at
4 any time after 10:00?

5 A. Yes.

6 Q. Did anyone help you during the work that
7 you did at the gym?

8 A. No.

9 Q. How long did it take you to do your work at
10 the gym?

11 A. Around three hours.

12 Q. And did you begin your work at the office
13 at about the same time that you began your work at
14 the gym?

15 A. No.

16 Q. When did you begin your work at the office?

17 A. I don't understand. Are you asking me if
18 the contract started at the same time?

19 Q. I am asking you that question.

20 A. Yes.

21 Q. And what was your understanding of what the
22 work at the office consisted of?

23 A. I think it was an architectural office.

24 Q. And what were you to do at that office?

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1 A. Clean it.

2 Q. Did anyone show you what to do at that
3 office?

4 A. Ronaldo and this other person.

5 Q. And what time of day or night were you to
6 do your work at the architectural office?

7 A. It was one time per week. I would have to
8 clean it after Friday night, before Monday morning.
9 So it has to be clean.

10 Q. And how long did it take you to clean the
11 architectural office?

12 A. Two to three hours.

13 Q. And did you clean it by yourself or did
14 anyone help you?

15 A. Alone.

16 Q. Did you have a key to the architectural
17 office?

18 A. Yes.

19 Q. And could you let yourself in any time
20 after Friday night and before Monday morning to
21 clean?

22 A. Yes.

23 Q. And when you did your cleaning at the
24 architectural office, was there anyone from

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1 Jani-King present?

2 A. No.

3 Q. When you did your cleaning at the
4 architectural office, was there anyone from the
5 office present?

6 A. Sometimes, yes.

7 Q. And was that if they happened to be working
8 over the weekend?

9 A. Yes.

10 Q. And did anyone from the architectural
11 office interfere with your work?

12 A. No, never.

13 Q. Did anyone from the architectural office
14 tell you what to do as your work?

15 A. No.

16 Q. When you did the work at the gym, was there
17 anyone from Jani-King present?

18 A. No.

19 Q. When you did the work at the gym, was there
20 anyone from the gym staff present?

21 A. No.

22 Q. Did there come a time when you had another
23 account to clean in addition to the gym and the
24 architectural office?

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1 A. No.

2 Q. Those were the only two accounts that you
3 ever had as a Jani-King franchisee?

4 A. Yes.

5 Q. Did you ever work at a business called
6 "Over the Rainbow"?

7 A. Yes.

8 Q. And tell me when you worked at a business
9 called "Over the Rainbow."

10 A. I started on the 23rd of August 2004.

11 Q. And how long did you continue work at Over
12 the Rainbow?

13 A. I don't remember.

14 Q. Did you work at Over the Rainbow as part of
15 your Jani-King franchise?16 A. After they cancelled one of the franchises,
17 they gave me this one.

18 Q. Now, which account ended first?

19 A. The gym.

20 Q. And what was your understanding of why the
21 gym ended your work there?

22 A. They did not give me any explanation.

23 Q. Did you ask anyone at the gym for an
24 explanation of why they ended -- why it ended its

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1 A. Just showed me.

2 Q. Showed you what?

3 A. That from there on, I would be the person
4 that would do the cleaning.

5 Q. And did she show you what that cleaning
6 consisted of?

7 A. Yes.

8 MR. PRESSMAN: Why don't we take a
9 five-minute break, and you can get a glass of water.
10 Take as long as you like.

11 (Recess taken from 12:12 to 12:20)

12 BY MR. PRESSMAN:

13 Q. How many times a week did you understand
14 that you were to clean at Over the Rainbow?

15 A. From Monday to Friday.

16 Q. And what did that cleaning consist of?

17 A. Just cleaning, normal cleaning.

18 Q. Did you know if there was a contract that
19 described the cleaning that was to take place at
20 Over the Rainbow?

21 A. No.

22 MR. SUGERMAN-BROZAN: I'm sorry, can we
23 clarify that answer, whether she's testifying that
24 she didn't know or that there was no contract.

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1 MR. PRESSMAN: Sure.

2 Q. Do I understand from your answer that you
3 didn't know whether or not there was a contract?

4 A. Yes.

5 Q. How much -- strike that.

6 How much time did it take you to do the
7 cleaning at Over the Rainbow?

8 A. Two to three hours.

9 Q. And did you have a key?

10 A. Yes.

11 Q. And when were you able to do that cleaning?

12 A. After five.

13 Q. And before when?

14 A. What?

15 Q. At any time after five?

16 A. Yes.

17 Q. Do you know if the Over the Rainbow school
18 was open on the weekends?

19 A. No.

20 Q. No, it was not?

21 A. No, it wasn't.

22 Q. And could you clean -- could you do the
23 cleaning for Friday at any time during the weekend?

24 A. Yes, I could.

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1 office was located.

2 A. I don't remember the street, but it's in
3 the center of Boston.

4 Q. Were there nights when you went from the
5 architectural office to Over the Rainbow or Over the
6 Rainbow to the architectural office?

7 A. No.

8 Q. Was anyone from Jani-King present when you
9 did your work at Over the Rainbow?

10 A. No, not at work.

11 Q. Was anyone from the Over the Rainbow school
12 present when you did your work at Over the Rainbow?

13 A. Sometimes, yes.

14 Q. And did whoever was there from the school
15 interfere with your work in any way?

16 A. No, never.

17 Q. Did there come a time when you stopped your
18 work at Over the Rainbow?

19 A. No.

20 Q. Are you still working at Over the Rainbow?

21 A. No, no, no.

22 Q. Okay. When did you stop your work at Over
23 the Rainbow?

24 A. I don't remember the date exactly, but it

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1 Q. And after you purchased the franchise, did
2 you try to reach Ronaldo to talk to him about the
3 franchise?

4 A. I tried.

5 Q. And were you unsuccessful?

6 A. I wasn't able to contact him.

7 Q. What kind of work do you do now?

8 A. Cleaning houses.

9 Q. And who is your employer?

10 A. I work for myself.

11 Q. And how many days a week do you work?

12 A. Five.

13 Q. Does anyone work with you?

14 A. No.

15 Q. Do you file income tax returns?

16 A. Yes.

17 Q. And do you prepare them yourself or does
18 someone else prepare them for you?

19 A. I have an accountant.

20 Q. And who is your accountant?

21 A. I know where it's at. It's an office,
22 Charles.

23 Q. Can you spell "Chow"?

24 A. Like Charles.